



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/172526

PRELIMINARY RECITALS

Pursuant to a petition filed March 08, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance (MA), a hearing was held on April 19, 2016, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner's prior authorization request for a RT300 FES cycle therapy system.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. The petitioner is a 42 year-old paraplegic person. He was able-bodied, active, and in shape until a motor cross accident that caused him to become paraplegic.

3. On January 7, 2016 the petitioner's provider, Restorative Therapies, submitted a Medical prior authorization request for an RT300 FES Therapy system. The listed cost of this system is \$23,300.
4. On January 26, 2016 the Department sent the petitioner a notice stating that the prior authorization request had been denied.
5. On March 8, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

For a piece of medical equipment, or a component of the equipment, to be covered by MA, it must be medically necessary. Wis. Admin. Code, §DHS 107.02(3)(e)1. Equipment is not medically necessary if it is solely for the convenience of the recipient, or if there are less costly alternatives available. Admin. Code, §DHS 101.03(96m)(b)7 and 8. In addition, Wis. Admin. Code, §DHS 107.24(2)(c)6 requires physical therapy equipment be used to "assist a disabled person to achieve independence in performing daily activities." "Activities of daily living" are defined as "activities relating to the performance of self-care, work and leisure or play activities, including dressing, feeding or eating, grooming, mobility and object manipulation." Wis. Admin. Code, §DHS 101.03(3).

MA is designed to cover only basic and necessary medical care. The RT300 FES cycle is a machine that provides electrical stimulation causing a person to achieve strong, coordinated muscle contractions. The possible benefits are relaxation of muscle spasms, prevention or retardation of disuse atrophy, increasing local blood circulation, maintaining or increasing range of motion, and maintaining sitting posture to reduce risk of skin breakdown. The petitioner tried this system at Froedtert. After using the system the petitioner had less pain and a better sitting posture.

The problem with approving this equipment is that I fail to see how this is going to assist the petitioner in achieving greater independence in his activities of daily living. The research suggests that this equipment may prevent some common problems that paraplegic patients can get; however, there is no evidence that the petitioner will develop these problems. Even if the petitioner were to develop these problems in the distant future, the problems listed do not appear to impact a person's ability to complete activities of daily living. This petitioner by all accounts is very active. He lifts weights and does whatever he can to stay in shape given his condition. Given that it is possible that he does not develop the problems that this machine seeks to prevent.

The evidence presented was that when the petitioner used this machine he had less pain and a better sitting posture. This does not meet the MA standard for approving this device. There is no difference in the petitioner's functioning with respect to his activities of daily living. Thus, the Department correctly denied the petitioner's prior authorization request for the RT300 FES cycle therapy system.

CONCLUSIONS OF LAW

The Department correctly denied the petitioner's prior authorization request for the RT300 FES cycle therapy system.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of May, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 17, 2016.

Division of Health Care Access and Accountability